

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-220191.2      **DATE:** January 17, 1986  
**MATTER OF:** American Seating Company

**DIGEST:**

Protest against termination of a contract for the convenience of the government is academic when the procuring agency lacks the necessary funds either to resolicit or to reinstate the terminated contract if the protest is sustained.

American Seating Company protests the termination for convenience of a delivery order issued to it under request for quotations (RFQ) No. M38440-5718-3660, issued by the Marine Corps Logistics Base, Albany, Georgia. American Seating contends that there was not a reasonable basis for the termination, since its offer complied with the brand name or equal specifications for office furniture. The protester maintains that it cannot be determined whether the termination is in the best interest of the government, since the Marine Corps has not provided a reason for the action in its report to this Office.

We dismiss the protest.

The termination occurred on October 25, 1985, after Commercial Office Environments, another offeror, protested to this Office concerning the propriety of award to American. We dismissed that protest, Commercial Office Environments, B-220191, Oct. 24, 1985, 85-2 CPD ¶ 458, after the Marine Corps advised us by letter dated October 18, 1985 that after award, it had discovered that American's offer appeared to be nonresponsive in several areas. Therefore, the Marine Corps stated, it intended to terminate the contract, review the specifications, revise them where necessary to reflect the agency's minimum needs, and resolicit. Under these circumstances we found the protest academic.

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We agree with American's statement that the basis for the termination is not clear, since in its report to this Office the Marine Corps has not provided any explanation as to why American's offer was nonresponsive. However, the Marine Corps advises us that it now lacks the necessary funds either to resolicit or to reinstate American's contract if we should sustain its protest. The Corps explains that the funds were deobligated and are no longer available for obligation. See 31 U.S.C. § 1502 (1982). The Corps further advises that no fiscal year 1986 funds have been identified for this acquisition and that therefore a reprocurement of the equipment is not planned. Under these circumstances, American's protest is also academic, and we dismiss it.



Ronald Berger  
Deputy Associate  
General Counsel